

## REMARKS

In the Office Action issued on February 14, 2008, the Examiner:

- removed the rejections based on McGuckin Jr., et al. (United States Patent No. 6,676,698);
- Indicated that the arguments presented in the submission with respect to Claims 1 through 11 are moot in view of new grounds of rejection raised in the action;
- rejected Claims 13 and 14 under 35 U.S.C. §102(e) as being anticipated by Snyder (United States Patent Application Publication No. 2002/0123802);
- rejected Claims 1 through 3 and 9 through 11 under 35 U.S.C. §102(e) as being anticipated by Shaolian (United States Patent Application Publication No. 2003/0055492);
- rejected Claims 1, 2, 4, 5, 9, 10, 13, and 14 under 35 U.S.C. §102(b) as being anticipated by Baykut (United States Patent No. 4,787,901);
- rejected Claims 4 through 6 under U.S.C. §103(a) as being unpatentably obvious over Shaolian;
- rejected Claim 15 under U.S.C. §103(a) as being unpatentably obvious over Snyders; and
- allowed Claims 7 and 8.

The Applicants have fully considered the Office Action and cited references and submit this after final Reply and Amendment in response to the Examiner's rejections.

Reconsideration of the application for patent is requested.

### **Amendment to cancel some rejected claims and to present other rejected claims in better form for consideration on appeal**

Applicants submit this after final amendment under the provisions of 37 C.F.R. §1.116 in order to cancel rejected claims 13 through 15 and to present all other rejected claims in better form for consideration on appeal, should an appeal be pursued.

The amendments made herein to Claim 1 are based on the Examiner's

suggestion regarding the fixed size of the opening (see February 14, 2008 Office action, page 2, bottom). Applicants thank the Examiner for her helpful input.

### **Support for amendments**

Independent Claim 1 is amended herein to include a limitation that the opening has a substantially fixed size "in both the first and second positions of the at least one leaflet." This amendment is fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 5, 9, and 15, and paragraph 0068.

### **Rejection of Claims 13 and 14 under 35 U.S.C. §102(e)**

The Applicants have herein cancelled claims 13 and 14. The rejection of these claims is, therefore, moot.

### **Rejection of Claims 1 through 3 and 9 through 11 under 35 U.S.C. §102(e)**

The Examiner rejected Claims 1 through 3 and 9 through 11 under 35 U.S.C. §102(e) as being anticipated by Shaolian.

Applicants have herein amended independent Claim 1 to require that the opening have a substantially fixed size "in both the first and second positions of the at least one leaflet." This amendment is made in accordance with the Examiner's suggestion (see February 14, 2008 Office action, page 4, bottom).

The device taught by Shaolian operates via a pivoting movement of the leaflet within the support frame, which continually alters the size of both the valve orifice and the opening. Thus, the opening does not have a substantially fixed size when the leaflet is in both a first and a second position. Accordingly, Shaolian fails to teach each and every limitation of amended Claim 1 and, for at least this reason, cannot properly serve as an anticipatory reference for any of Claims 1 through 3 and 9 through 11.

The Applicants respectfully assert that this rejection of the claims has been overcome and request reconsideration of the claims.

### **Rejection of Claims 1, 2, 4, 5, 9, 10, 13, and 14 under 35 U.S.C. §102(b)**

The Examiner rejected Claims 1, 2, 4, 5, 9, 10, 13, and 14 as being anticipated under 35 U.S.C. §102(b) by Baykut.

Applicants have herein amended independent Claim 1 to require that the

opening have a substantially fixed size "in both the first and second positions of the at least one leaflet." This amendment is made in accordance with the Examiner's suggestion (see February 14, 2008 Office action, page 4, bottom).

The device taught by Baykut includes an opening that varies in size as fluid flow of different directions enters the device. The opening does not have a substantially fixed size when the leaflet is in both a first and a second position (see., e.g., Figures 9 and 10). Accordingly, Baykut fails to teach each and every limitation of amended Claim 1 and, for at least this reason, cannot properly serve as an anticipatory reference for any of Claims 1, 2, 4, 5, 9, 10, 13, and 14.

The Applicants respectfully assert that this rejection of the claims has been overcome and request reconsideration of the claims.

#### **Rejection of Claims 4 through 6 under 35 U.S.C. §103(a).**

The Examiner rejected Claims 4 through 6 under 35 U.S.C. §103(a) as being unpatentably obvious over Shaolian.

Each of Claims 4 through 6 depends from independent Claim 1, which has been amended herein. As detailed above, Shaolian fails to teach each and every limitation of amended Claim 1 and, therefore, fails to teach each and every limitation of any of Claims 4 through 6. Accordingly, Shaolian, without more, cannot properly serve as the basis for an obviousness rejection of these claims.

The Applicants respectfully assert that this rejection of the claims has been overcome and request reconsideration of the claims.

#### **Rejection of Claim 15 under 35 U.S.C. §103(a)**

The Applicants have herein cancelled claim 15. The rejection of this claim is, therefore, moot.

#### **Allowance of Claims 7 and 8**

The Applicants thank the Examiner for the indication that Claims 7 and 8 have been allowed.

## CONCLUSION

Entry of this Reply and Amendment under the provisions of 37 C.F.R. §1.116 is respectfully requested.

The Applicants have fully responded to the rejections listed by the Examiner in the February 14, 2008, Office action. Applicants respectfully assert that all claims remaining after entry of this amendment define patentable subject matter and request their reconsideration and issuance of an appropriate Notice of Allowance.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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